

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MALIBU MEDIA, LLC,)
)
)
Plaintiff,)
)
)
vs.)
)
MICHAEL HARRISON,)
)
)
Defendant.) No. 1:12-cv-01117-WTL-MJD

CASE MANAGEMENT ORDER

I. Pretrial Pleadings and Disclosures

- A. The parties shall complete and update their Fed. R. Civ. P. 26 initial disclosures on or before **May 5, 2014**.
- B. Plaintiff(s) shall identify any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703, or 705, and shall serve the report required by Fed. R. Civ. P. 26(a)(2)(B) or (C) on or before **June 16, 2014**. Defendant(s) shall identify any witness he may use at trial to present evidence under Federal Rule of Evidence 702, 703, or 705, and shall serve the report required by Fed. R. Civ. P. 26(a)(2)(B) or (C) on or before **July 16, 2014**. Plaintiff(s) shall identify any witness it may use at trial to rebut the testimony of any witness Defendant may have identified to present evidence at trial under Federal Rule of Evidence 702, 703, or 705, and shall serve the report required by Fed. R. Civ. P. 26(a)(2)(B) or (C) on or before **August 13, 2014**.
- C. Any party who wishes to limit or preclude expert testimony at trial or on summary judgment shall file any such objections no later than **September 19, 2014**.
- D. All parties shall file and serve their final witness and exhibit lists on or before **July 16, 2014**. This list should reflect the specific potential witnesses the party may call at trial. It is not sufficient for a party to simply incorporate by reference "any witness listed in discovery" or such general statements. The list of final witnesses shall include a brief synopsis of the expected testimony.
- E. Any party who believes that bifurcation of discovery and/or trial is appropriate with respect to any issue or claim shall notify the Court as soon as practicable.

- F. In the event that a document protected by the attorney-client privilege, the attorney work product doctrine or other applicable privilege or protection is unintentionally produced by any party to this proceeding, the producing party may request that the document be returned. In the event that such a request is made, all parties to the litigation and their counsel shall promptly return all copies of the document in their possession, custody, or control to the producing party and shall not retain or make any copies of the document or any documents derived from such document. The producing party shall promptly identify the returned document on a privilege log. The unintentional disclosure of a privileged or otherwise protected document shall not constitute a waiver of the privilege or protection with respect to that document or any other documents involving the same or similar subject matter.

II. Discovery¹ and Dispositive Motions

If the required conference under Local Rule 37-1 does not resolve discovery issues that may arise, the parties will request a telephonic status conference prior to filing any disputed motion to compel or for protective order.

- A. On or before **September 8, 2014**, and consistent with the certification provisions of Fed. R. Civ. Proc. 11(b), any party with the burden of proof shall file a statement of the claims or defenses it intends to prove at trial, stating specifically the legal theories upon which the claims or defenses are based.
- B. Dispositive motions are expected and shall be filed by **September 19, 2014**; all discovery shall be completed by **August 29, 2014**.

Absent leave of court, and for good cause shown, all issues raised on summary judgment under Fed. R. Civ. P. 56 must be raised by a party in a single motion.

III. Trial Date

The parties request a trial date in **June 2015**. The trial is by **jury** and is anticipated to take **5 days**.

IV. Required Pre-Trial Preparation

- A. **TWO WEEKS BEFORE THE FINAL PRETRIAL CONFERENCE, the parties shall:**

¹The term “completed,” as used in Section IV.B, means that counsel must serve their discovery requests in sufficient time to receive responses before this deadline. Counsel may not serve discovery requests within the 30-day period before this deadline unless they seek leave of Court to serve a belated request and show good cause for the same. In such event, the proposed belated discovery request shall be filed with the motion, and the opposing party will receive it with service of the motion but need not respond to the same until such time as the Court grants the motion.

1. File a list of trial witnesses, by name, who are actually expected to be called to testify at trial. This list may not include any witnesses not on a party's final witness list filed pursuant to section III.I.
 2. Number in sequential order all exhibits, including graphs, charts and the like, that will be used during the trial. Provide the Court with a list of these exhibits, including a description of each exhibit and the identifying designation. Make the original exhibits available for inspection by opposing counsel. Stipulations as to the authenticity and admissibility of exhibits are encouraged to the greatest extent possible.
 3. Submit all stipulations of facts in writing to the Court. Stipulations are always encouraged so that at trial, counsel can concentrate on relevant contested facts.
 4. A party who intends to offer any depositions into evidence during the party's case in chief shall prepare and file with the Court and copy to all opposing parties either:
 - a. brief written summaries of the relevant facts in the depositions that will be offered. (Because such a summary will be used in lieu of the actual deposition testimony to eliminate time reading depositions in a question and answer format, this is strongly encouraged.); or
 - b. if a summary is inappropriate, a document which lists the portions of the deposition(s), including the specific page and line numbers, that will be read, or, in the event of a video-taped deposition, the portions of the deposition that will be played, designated specifically by counter-numbers.
 5. Provide all other parties and the Court with any trial briefs and motions in limine, along with all proposed jury instructions, voir dire questions, and areas of inquiry for voir dire (or, if the trial is to the Court, with proposed findings of fact and conclusions of law).
 6. Notify the Court and opposing counsel of the anticipated use of any evidence presentation equipment.
- B. ONE WEEK BEFORE THE FINAL PRETRIAL CONFERENCE, the parties shall:**
1. Notify opposing counsel in writing of any objections to the proposed exhibits. If the parties desire a ruling on the objection prior to trial, a motion should be filed noting the objection and a description and

designation of the exhibit, the basis of the objection, and the legal authorities supporting the objection.

2. If a party has an objection to the deposition summary or to a designated portion of a deposition that will be offered at trial, or if a party intends to offer additional portions at trial in response to the opponent's designation, and the parties desire a ruling on the objection prior to trial, the party shall submit the objections and counter summaries or designations to the Court in writing. Any objections shall be made in the same manner as for proposed exhibits. However, in the case of objections to video-taped depositions, the objections shall be brought to the Court's immediate attention to allow adequate time for editing of the deposition prior to trial.
3. File objections to any motions in limine, proposed instructions, and voir dire questions submitted by the opposing parties.
4. Notify the Court and opposing counsel of requests for separation of witnesses at trial.

	PARTIES APPEARED IN PERSON/BY COUNSEL ON _____ FOR A PRETRIAL/STATUS CONFERENCE.
	APPROVED AS SUBMITTED.
	APPROVED AS AMENDED.
	APPROVED AS AMENDED PER SEPARATE ORDER.
	APPROVED, BUT ALL OF THE FOREGOING DEADLINES ARE SHORTENED/LENGTHENED BY _____ MONTHS.
	APPROVED, BUT THE DEADLINES SET IN SECTION(S) _____ OF THE PLAN IS/ARE SHORTENED/LENGTHENED BY _____ MONTHS.
	THIS MATTER IS SET FOR TRIAL BY _____ ON _____. FINAL PRETRIAL CONFERENCE IS SCHEDULED FOR _____ AT _____.M., ROOM _____.

	A SETTLEMENT/STATUS CONFERENCE IS SET IN THIS CASE FOR _____ AT _____.M. COUNSEL SHALL APPEAR: _____ IN PERSON IN ROOM _____; OR _____ BY TELEPHONE, WITH COUNSEL FOR INITIATING THE CALL TO ALL OTHER PARTIES AND ADDING THE COURT JUDGE AT (____) _____ ; OR _____ BY TELEPHONE, WITH COUNSEL CALLING THE JUDGE'S STAFF AT (____) _____ ;
	DISPOSITIVE MOTIONS SHALL BE FILED NO LATER THAN _ September 19, 2014. All Discovery August 29, 2014.

Upon approval, this Plan constitutes an Order of the Court. Failure to comply with an Order of the Court may result in sanctions for contempt, or as provided under Rule 16(f), to and including dismissal or default.

Approved and So Ordered.

Date: 04/15/2014

Distribution:
All Electronically Registered Counsel



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana